

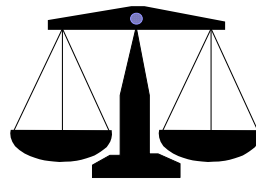
# CITY OF CINCINNATI

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## Ninth Status Report to the Independent Monitor

August 12, 2004



## Cincinnati Police Department

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Police Relations Section

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## I. INTRODUCTION

In April 2001, the Mayor of Cincinnati, and other interested persons within the City, requested the United States Department of Justice (DOJ) to conduct a review of the Cincinnati Police Department's (CPD) policies and procedures, specifically those that related to the uses of force. This request indicated the City's commitment to minimizing the risk of excessive use of force in the CPD and to promoting police integrity. In response to these requests, the DOJ launched an investigation pursuant to authority granted under 42 U.S.C. 14141, the Violent Crime Control and Law Enforcement Act of 1994.

The DOJ's investigation, conducted with the full cooperation of the City, included extensive interviews with City and CPD officials, CPD officers, leaders of the Fraternal Order of Police (FOP) and the African-American police officers' association (Sentinels), community members and civil rights organization representatives.

At the close of the investigation, which lasted approximately one year, the DOJ determined that the jurisdictional requirements of 42 U.S.C. 14141 were sufficiently satisfied to permit the Parties to enter into the **Memorandum of Agreement (MOA)**. As a result of the City's and the CPD's high level of voluntary cooperation and willingness to implement meaningful change, the DOJ believed the MOA, rather than contested litigation, represented the best opportunity to address the DOJ's concerns. On April 11, 2002, history was made in the City of Cincinnati. The City of Cincinnati and the United States Department of Justice entered into the landmark Agreement.<sup>1</sup>

At the same time, representatives for the City, the Cincinnati Black United Front (CBUF), the American Civil Liberties Union of Ohio (ACLU), and the Fraternal Order of Police (FOP) executed the **Collaborative Agreement (CA)**. Brought about in part by a series of legal actions citing patterns of discrimination by police, this latter Agreement also served as an alternative to court litigation. Under this Agreement, the Federal District Court introduced a process where various stakeholders in the community could examine the broader social conflicts in the City by gathering the views of as many citizens as possible on improving the relationship between police officers and the community. Through the distribution of questionnaires and a series of public meetings involving different segments of the community, the following goals became the cornerstones of the Collaborative Agreement:

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<sup>1</sup> Neither the City's entry into this Agreement, nor its decision to implement changes in CPD policies and procedures is an admission by the City, the CPD, or any officer or employee of either, that any of them have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.

1. Police officers and community members will become proactive partners in community problem solving.
2. Police officers and community members will build relationships of respect, cooperation, and trust within and between the police and the citizens.
3. Police officers and community members will work to improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department.
4. Police officers and community members will ensure fair, equitable, and courteous treatment for all by members of the police department.
5. Police officers and community members will create methods to establish the public's understanding of police policies and procedures and to recognize exceptional service provided by members of the police department.

Implementation of both Agreements will not only reform police practice, but will enhance trust, communication, and cooperation between the police and the community. The settlements have fostered a union that has motivated all segments of the community to come together and focus on building the positive and productive relations necessary to maintain a vibrant city core and surrounding metropolitan area. The City of Cincinnati is enthusiastic and committed to this endeavor and has already begun initiatives to involve virtually all City departments in the process.

The two Agreements will be overseen by an Independent Monitor. Consistent with the consensus decision-making process incorporated in the collaborative process, all collaborative partners unanimously selected the independent monitor.

## I. GENERAL POLICIES

### A. Mental Health Response Team (MHRT)

The MOA's requirements with regard to the MHRT are located at paragraph 10.

#### Monitor's Previous Assessment

- The Monitor found that In the most recent status report, the Monitor concluded CDP policies, training and coverage met the MOA requirements.

#### Status Update

- *Training*

CPD has negotiated a contract with Mental Health Associates (MHA) to conduct MHRT training. The Training Section is currently developing a schedule for the training. It is anticipated that four, eight-hour refresher sessions will be held in September, 2004, and a 40-hour training session for approximately 30 new MHRT candidates is slated for November, 2004.

In the event that members of the Monitoring Team wish to attend, the Training Section will forward the final training schedule.

- *MHRT Availability*

CPD continues to track the number of MHRT officers deployed on a daily basis. The tracking process allows CPD to take a look at MHRT staffing levels by shift, district, and department-wide. According to the April, May, and June staffing reports, CPD was able to provide consistent MHRT service. The MHRT staffing reports are included in Appendix Item 1.

- *MHRT Officer Dispatch Summary*

Effective May 1, 2003, Police Communications Section began to record the dispatch disposition of MHRT officers to all calls involving suspected mentally ill individuals. When dispatching these calls, the dispatcher will make an entry into a designated field for all MHRT calls, indicating one of the following dispositions:

**MHD** – A MHRT unit was dispatched to the call

**MHNA** – A MHRT unit was not dispatched because all MHRT units city-wide were busy.

**MHNW** – There were no MHRT units working in the city.

During this reporting period, CPD received 1,488 calls involving mentally ill persons. In 110 of those instances, the call did not meet the criteria for dispatch and was cancelled or the call was handled by another agency. In 219 cases, the call was dispatched as another incident type and later changed to a MHRT by the responding officers, making 1159 of the calls eligible for MHRT officer dispatch. For 885 of the calls, a MHRT officer was dispatched. For these months, there were only 24 calls in which an MHRT officer was not available for dispatch and there were no

instances in which a MHRT officer was not working. A monthly analysis of these calls is included in Appendix Item 2.

➤ **Mobile Crisis Team Workers**

The Psychiatric Emergency Services Department of University Hospital continues its partnership with CPD that has enabled Mobile Crisis Team personnel to work from, and in conjunction with, the police districts. Currently, the program operates in Districts One and Five.

For the second quarter of 2004, statistics were maintained for individuals in both districts who could be identified as being in need of mental health services. Identification is made through an incident history, police reports (Form 316), or by hospital records. Information regarding the number of MHRT runs handled by police, the Mobile Crisis Team, or a combination of both is also tabulated. Once an individual has been identified, social demographic data regarding the subject and the outcome of each incident is documented and entered into a database in each of the districts.

	<b>District One</b>	<b>District Five</b>
Total Calls	246	229
CPD Only	179	136
Mobile Crisis Team Only	23	37
CPD assisted by Mobile Crisis Team	30	41
Mobile Crisis Team assisted by CPD	14	15
Total Individuals Identified	208	180
Mobile Crisis Team Consultations	6	7

**B. Foot Pursuits**

The provisions of the MOA related to foot pursuits are located in paragraph 11.

Monitor's Previous Assessment

The Monitor found the foot pursuit policy to be in compliance with the MOA, but overall found CPD to be in partial compliance based on the following observations:

- “With respect to implementation, we reviewed a number of investigations of Use of Force incidents and citizen complaints in which there was a foot pursuit. Documentation of the supervisor’s review of some of these foot pursuits suggests that the policy and training are beginning to become part of CPD’s routine reporting and review. However, we not (sic) prepared to say that CPD is in full compliance at this time.”

### Status Update

During this quarter, the Monitor proposed modifications to CPD's Use of Force reporting. More specifically, the Monitor has requested enhancements to the narrative portion of the various incident reports. To accommodate this request, CPD has arranged a series of meetings with command and supervisory personnel to discuss these issues. Training materials will be developed and distributed which will reinforce the need to document, review, and evaluate foot pursuits that occur in connection with force incidents.

Utilizing the roll call training program, CPD reviewed and discussed tactical and risk considerations involving foot pursuits. The training calendars and related scenarios can be found in Appendix Item # 23.

### **Appendix Information (Document Description – Exhibit Number)**

- |                                |    |
|--------------------------------|----|
| • MHRT Deployment Summary      | 1  |
| • MHRT Dispatch Summary        | 2  |
| • Roll Call Training Calendars | 23 |

### III. USE OF FORCE POLICY

#### A. General Use of Force Policies

The MOA's requirements pertaining to use of force are located in paragraphs 12 and 13.

##### Monitor's Previous Assessment

The Monitor concluded CPD's current Use of Force policy is in compliance with the MOA.

#### B. TASER

##### Monitor's Previous Assessment

The Monitor concluded the new provisions relating to TASER usage and reporting comply with the MOA. Last quarter, the Monitoring Team reviewed 22 of the 72 reported TASER incidents. They concluded, "In each incident but two, the supervisor's investigation and report was sufficient to determine that the TASER use was consistent with CPD policy."

The Monitor expressed, however, some reservations over its usage. First, there is a concern over injuries connected with its usage, particularly from the subject's fall to the ground after being hit by the TASER. Second, the Monitor points to recent deaths in custody involving TASER usage. Third, there is a concern over consideration given by the officers to other force options or arrest control techniques.

##### Status Update

As of June 30, 2004, 981 officers have been trained and equipped with the new TASER. Of the 981 officers, 798 submitted to a voluntary exposure of the five second TASER cycle. Approximately 15 officers remain untrained and unequipped with the TASER. Most of these officers are currently serving active duty with the military. They will be trained upon their return to the Department.

During this reporting period, there were 177 incidents in which the X26 TASER was deployed. The following is a summary of the effectiveness of those deployments:

Subject immobilized or compliance gained	113
TASER darts missed target / no effect	33
Subject partially affected	30
Subject fled / affects unknown	1
<b>Total Deployments</b>	<b>177</b>



In 26 other incidents, the mere threat of impending TASER use was sufficient to gain compliance.

The Monitor has expressed concerns to CPD about information continued in recent news articles regarding deaths in custody associated with the use of the TASER. At this point, however, neither the Monitor, nor any other credible source, has produced evidence that would suggest or demonstrate that any of the incidents cited in these articles were directly attributed to the deployment of the X26 TASER. Since CPD deployment of the X26 TASER in late January of 2004, the Tactical Planning Section has monitored the many aspects associated with all TASER deployments. Of the 177 TASER deployments this reporting period, 25 involved injuries sustained due to the suspect falling to the ground immediately after the deployment. In 24 of these instances, the injuries were relatively minor, limited to minor contusions, lacerations, and abrasions. These injuries would be consistent with the outcome of other force options.

In the one remaining incident, the suspect sustained an injury considered to be more serious, which was found to be a fractured orbital socket received after the subject fell to the pavement.

Training on the X26 TASER began in late January 2004, with aggressive implementation beginning in February, 2004. During the period beginning February 1, 2003, and ending June 30, 2003, CPD reported 28 officers being injured as the result of arrest situations. During the same timeframe in 2004, that number dropped to 16, which translates into a **43% reduction** in officer injuries.

CPD has studied the impact the TASER has had on the overall force used. In comparing the Use of Force incidents for the second quarter of 2004 relative to the same time period in 2003, CPD has experienced a **7.7% reduction** in force used. This is summarized as follows:

	2003 Second Quarter	2004 Second Quarter	
TASER	2	177	
Other Physical Force	79	4	
Injury to Prisoner	79	47	
Chemical Irritant	117	35	
Beanbag Shotgun	4	0	
40 Millimeter	0	0	
Pepperball Launcher	1	0	
PR-24	3	0	
Total Incidents	285	263	= <7.7%>

TASER deployments have been summarized in Table 24-1, which is included as Appendix Item 14.

Use of Force statistics for the current reporting period have been included in Appendix Item 3.

### **C. Chemical Spray**

MOA provisions pertaining to chemical spray are found at paragraphs 14, 15, and 16.

#### **Monitor's Previous Assessment**

In the report, the Monitor indicated CPD's chemical irritant policy is in compliance with the MOA. Upon review of sample investigations involving the use of chemical irritant, however, the Monitoring Team noted several cases where it appeared that subjects were not warned that chemical spray would be used if they did not comply with the officers' commands. The Monitoring Team stressed the need to document in the narrative of the report the reason why a warning was not used.

In regards to the use of chemical spray on restrained individuals, the Monitor also concluded that officers deployed chemical spray in situations consistent with the MOA (based upon review of sample incidents).

The Monitor's review of chemical spray incidents indicates that "CPD officers are complying with the MOA provisions relating to the duration of chemical spray, and targeting the subject's face and upper torso. In most cases, the force reports also indicate that the subjects were allowed to decontaminate within 20 minutes."

#### **Status Update**

At the request of the Monitor, CPD revised the Chemical Irritant report to add a section to enter the officer(s)' degree of verbalization prior to deployment. For the 39 incidents involving the use of chemical irritant this reporting period, some degree of verbalization was involved in 38 of the instances. It has been CPD's experience that time and tactical considerations associated with some incidents make this warning impossible. The documentation necessary to record the exigencies of these circumstances will be covered in the training materials distributed to command and supervisory personnel to assist in meeting the requirements contained in the force reporting proposal recommended by the Monitor.

Chemical irritant deployment has been summarized in Appendix Items 4, 5, 6, 7, and 8.

### **D. Canine**

The MOA provisions relating to canine policy are located in paragraph 20.

#### **Monitor's Previous Assessment**

The Monitor found that the current CPD canine policy meets the MOA provisions.

Regarding incident reporting, in the last quarter the Monitoring Team reviewed two bite investigations. The Monitoring Team found both to be consistent with the MOA with respect to deployment criteria, authorization of a supervisor, canine announcement, and canine engagement.

However, because these investigations were from the third quarter of 2003, and there have been a number of canine bites since that time that they have not been able to evaluate (six investigations were pending), they were not in a position to assess MOA compliance for the quarter.

Next quarter, the Monitoring Team expects to review additional canine investigative files, as well as audit deployment forms for deployments which resulted in apprehensions without a canine bite.

#### Status Update

During this reporting period, CPD had only one incident involving a canine bite. This bite occurred as the result of a track. Specifically, this incident occurred after a subject fired upon officers. The canine located the subject hiding underneath a porch and made an initial bite to hold the subject. Unfortunately, the suspect attempted to fight the canine by grabbing the dog around the head and was subsequently injured. The injuries, however, consisted of only minor scrapes and abrasions.

Canines were deployed in connection with 163 incidents during this period. As a result, 18 individuals were located with 1 of those persons being bitten by the dog. This equates to a 5.56% unit bite ratio. The statistics generated by the Canine Deployment Database have been included in Appendix Items 9 and 10.

The outstanding canine bite investigations referred to by the Monitor have been identified and have since been expedited through the command level review process. Upon completion of that process, they will be submitted to the Monitor and DOJ for review.

During the site visit in July, the Monitoring Team observed canine training and also obtained additional information regarding CPD canine deployment. At the request of the Monitor, CPD will make similar arrangements for DOJ to observe the training. Subsequent to that meeting, the Monitor will attempt to identify and resolve any issues between CPD and DOJ as they relate to canine deployment, methodology, or training.

The canine bite ratio reports generated pursuant to MOA paragraph 20 are included in Appendix Items 11, 12, and 13. These reports examine the following six-month periods:

November 1, 2003 – April 30, 2004  
December 1, 2003 – May 31, 2004  
January 1, 2004 – June 30, 2004

Bite ratios for these periods appear to remain below the 20% unit threshold.

#### **E. Beanbag Shotguns / 40mm Foam Rounds / Pepperball**

The MOA provisions relating to beanbag shotguns and 40mm foam rounds are located in paragraphs 21, 22, and 23.

##### Monitor's Previous Assessment

The Monitor found CPD to be in compliance with the MOA requirements relating to beanbag shotgun and 40mm foam round deployments. During the first quarter of 2004, there was one instance involving a 40 millimeter deployment and no cases involving the deployment of the beanbag shotgun.

##### Status Update

During this reporting period, there were no incidents involving the deployment of the 40 millimeter, beanbag shotgun, or Pepperball launcher.

**Appendix Information (Document Description – Exhibit Number)**

Table 12-1 – Use of Force Summary	3
Table 14-1 – Chemical Irritant Summary – Group Deployments	4
Table 14-2 – Chemical Irritant Summary – Verbal Commands	5
Table 14-3 – Chemical Irritant Summary – Decontamination	6
Table 14-4 – Chemical Irritant Summary – Restrained Individuals	7
Table 18-1 – Chemical Irritant Distribution	8
Table 20-1 – Canine Deployment Summary	9
Table 20-2 – Canine Bite Summary	10
Canine Bite Ratio Report – (1/1/03 to 6/30/03)	11
Canine Bite Ratio Report – (2/1/03 to 7/31/03)	12
Canine Bite Ratio Report – (3/1/03 to 8/31/03)	13
CPD TASER Deployment Summary – Second Quarter 2004	14

## **IV. INCIDENT DOCUMENTATION, INVESTIGATION & REVIEW**

### **A. Documentation**

The MOA provisions relating to documentation are located in paragraph 24.

#### Monitor's Previous Assessment

The Monitor found CPD to be out of compliance with the force incident reporting provisions. Specifically, the Monitor cited the following CPD reporting practices:

➤ **Form 18NC – Non-Compliant Suspect Arrestee Report**

The Monitor believes the report is still not capturing sufficient information to comply with the requirements of the MOA and CPD policy. In review of a sample of 37 Form 18NCs from the first quarter of 2004, the Monitoring Team found “at least eight of the 37 lacked sufficient facts to find compliance, and two did not have any narrative or description of the force used at all. In addition, only two of the incidents included written comments by the supervisor evaluating the officer’s tactics and use of force.”

➤ **Takedowns with Injury**

A new reporting procedure will be put in place for takedowns with injury starting July 1, 2004 (see below).

#### Status Update

In May 2004, the City of Cincinnati and the Department of Justice accepted a proposal by the Monitor to resolve the dispute over taped statements being required in investigations involving “hard hands” and takedowns where the subject was injured, but where no hospitalization resulted.

For a six month period, starting July 1, 2004, the CPD will investigate and report takedowns that result in injury according to current procedure e.g., investigations without taped statements. The Monitor will review a sample of these investigations to assess their compliance with complete and thorough investigations.<sup>2</sup>

In addition, for “hard hands” and takedowns without injury, CPD will continue to report according to current procedure.<sup>3</sup>

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<sup>2</sup> The investigation includes interviews with all witnesses/participants. The Form 18I includes a supervisor’s narrative description of events leading to the use of force, and a description of the subject’s resistance. The report also includes a review and determination of whether the officer’s actions in regard to the initial stop or seizure were within CPD policy, and a review and determination of whether the use of force was within CPD policy.

<sup>3</sup> The Form 18NC includes a narrative documenting the events preceding the use of force, the subject’s resistance, and each and every type of force/defensive tactic used. A first-line supervisor reviews the form and provides written comments on the appropriateness of the

If after the six month period, the Monitor determines the reporting is sufficient and that the aforementioned uses of force and Use of Force investigations are consistent with the MOA, the MOA will be amended to reflect the proposal.

Conversely, if the Monitor determines the force incidents and investigations are not consistent with the MOA, “hard hands” and takedowns which result in injuries will be reported with taped statements of all witnesses and participants.

To accomplish the enhancements sought by the Monitor, CPD is in the process of holding meetings with command and supervisory personnel. These meeting will include the dissemination of training materials and will also stress the specific information sought by the Monitor. Examples of reports cited as being deficient by the Monitor were included to illustrate critical issues.

In addition to the command level and Inspections Sections’ review processes, the Police Relations Section, as being the primary compliance coordinator for the MOA, will also review these reports to ensure they meet MOA provisions.

➤ **Reporting Multiple Uses of Force in One Incident**

The Monitor noted not all of CPD’s force forms account for the MOA requirement that the CPD document and evaluate each separate use of force, even when there are multiple uses of force in the same incident.

Status Update

As stated by the Monitor, the implementation of the ETS system to report and document force incidents should address this issue. In the meantime, however, CPD will also take steps to include the details and analysis of all types of force utilized in the various incident reports.

**B. Investigation**

The MOA provisions relating to investigation are located in paragraphs 26, 27, 28, 29, 30, and 31.

Monitor’s Previous Assessment

The Monitor found CPD’s policies regarding the investigation of Use of Force incidents comply with the MOA. After reviewing a sample of Use of Force investigations, the Monitoring Team found CPD to be only in partial compliance citing the following issues:

- The investigations did not always evaluate the basis for the initial stop or seizure, and determine whether the officer’s actions regarding the stop and seizure were within policy.

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officer’s tactics and the force used. The Inspections Section reviews the report for tactical errors, and legal, policy and training issues.

- The investigating supervisor did not always interview all of the relevant witnesses or officers.

### Status Update

As stated in a previous section of this report, this issue will be addressed through additional training and supplementary materials to supervisory and command personnel outlining the requirements contained in the force reporting proposal recommended by the Monitor.

## **C. Review of Critical Firearms Discharges**

The relevant provisions of the MOA are located at paragraphs 32, 33 and 34.

### Monitor's Previous Assessment

CPD's policy on critical firearm discharges complies with the MOA. The Monitor is awaiting the Firearms Discharge Board's reviews in four previous incidents. The Monitor pointed out "that it appears the CPD has not been able to meet the requirement that the Firearms Discharge Board review a critical firearms discharge within 90 days of the end of all criminal reviews of the incident, absent exceptional circumstances."

### Status Update

There were two firearm discharges at suspects in the second quarter of 2004. Both occurred on April 13, 2004, during unrelated incidents. One (police investigation number 04-pi-05) is currently being investigated by CIS and the other (outside CPD's jurisdiction) is currently being reviewed by the Firearms Discharge Board. In regards to the four discharges in the first quarter, the status is as follows:

<b>Police Investigation Number</b>	<b>Status</b>
04-pi-01	Criminal trial set for August 6, 2004
04-pi-02	Criminal trial set for August 30, 2004
04-pi-03	CIS review completed; IIS currently reviewing
04-pi-04	CIS review completed; IIS currently reviewing

The Firearms Discharge Board submitted a report in May, 2004, regarding a firearms discharge in November, 2003 (03-pi-05).

In regards to the Monitor's concern over reports from the FDB being completed in a timely manner, it should be noted the 90-day requirement does not begin until the FDB receives the material from the Police Chief.<sup>4</sup> As can be seen in the case summary sheet for the Firearms Discharge Board, case 03-pi-05 was submitted within the 90-day reporting requirement. All other cases are pending.

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<sup>4</sup> CPD Procedure 12.550



**Appendix Information (Document Description – Exhibit Number)**

- 2003 Firearms Discharge Board Summary 15
- Firearms Discharge Board Report on Case 03-pi-05 15

## **V. CITIZEN COMPLAINT PROCESS**

### **A. Openness of the Complaint Process**

Paragraphs 35 and 36 of the MOA deal with the openness of the complaint process.

#### Monitor's Previous Assessment

CPD is in compliance with the complaint intake provisions of the MOA.

#### Status Update

CPD continues to conduct inspections to ensure complaint forms and materials are available in police buildings, police vehicles, and the public places outlined in the MOA.

### **B. Means of Filing and Tracking Complaints**

Paragraphs 37 and 38 of the MOA deal with the tracking and filing of complaints.

#### Monitor's Previous Assessment

Nothing Noted

#### Status Update

Nothing Noted

### **C. Investigation of Complaints**

Paragraphs 39, 40, 41, 42, 43, 44, and 45 of the MOA deal with the investigation of complaints.

#### Monitor's Previous Assessment

A concern the Monitor raised in a previous reports is that discrimination complaints were being handled by field investigations and the CCRP process, rather than by IIS investigators, as required by the MOA and by CPD procedure. The Monitor noted since April 1, 2004, IIS has been investigating all discrimination complaints.

As part of the assessment, the Monitoring Team also reviewed nine IIS citizen complaint investigations, ten CCRP field investigations, and nine investigations handled by the CCA. The review generated the following:

## **IIS Investigations**

- IIS is now reviewing District Use of Force investigations
- There were no group interviews conducted
- The CPD properly identified and investigated misconduct other than the violations alleged in the complaint
- Only one case reviewed was investigated by a supervisor who authorized the use of force or conduct at issue in the complaint
- As a general matter, IIS investigators were not asking leading questions of officers

The Monitor noted improvements are needed in the following areas:

- Additional follow-up questions should have been asked, or witnesses and officers interviewed
- The IIS investigators ask probing questions in their interviews (e.g., regarding the initial stop and seizure, or about the details of the use of force), but the issues raised by these questions were not addressed in the investigator's write-up or findings

## **CCRP Investigations**

- The Monitor found the reviewed CCRP cases to be: properly investigated as CCRP cases, resolved in writing, and resolved with one of the four dispositions required by the MOA; assigned a unique identifier and tracked in the complaint system; conducted by a supervisor who was not involved in the conduct that precipitated the complaint; completed before a resolution meeting was scheduled; and signed by the District Commander. All of the involved officers and witnesses were interviewed, and all relevant police activity was investigated. For each case, a report was written that included a description of the incident, a summary of the evidence, and findings and analysis.

## **Time Period for Investigations**

- For IIS cases, 28 of the 74 cases cleared in the first quarter of 2004 took longer than 90 days to resolve. For the 77 CCRP cases reviewed, 11 exceeded the 90-day investigative requirement.

## **Status Update**

- **IIS Investigations** - Review of the data of IIS cases closed during the second quarter of 2004 revealed a total of 63 cases were cleared during this timeframe. Of those 63 cases, 19 exceeded the 90-day investigative requirement. As stated by CPD in previous status reports, the issue for IIS often becomes one of available resources and prioritization of important controversial cases. For those cases, closures are dependent upon the workload and the number of cases assigned to the

investigators. As such, IIS must prioritize caseload to manage the resource issue. In other instances, the case may be criminal in nature or detailed enough that additional investigative time is warranted. A summary which outlines the length of investigative time associated with those cases closed by IIS during this quarter is included in Appendix Item 16.

In regards to the Monitor's comments about IIS interviews, the Monitor reviewed seven IIS investigations. Two of these investigations included the aforementioned concerns. The IIS Commander has had discussions with the Monitoring Team about these two investigations. IIS will continue to address these concerns in future investigations.

- **CCRP Investigations** – Review of the data of CCRP cases closed during the second quarter of 2004 revealed a total of 83 cases were cleared during this timeframe. Of those 83 cases, 12 exceeded the 90-day investigative requirement. This is a slight improvement over last quarter. CPD will continue to work on resolving these investigations in a timely manner. A summary which outlines the length of investigative time associated with closed CCRP cases during this quarter is included in Appendix Item 17.

## **D. Adjudication of Complaints**

### Monitor's Previous Assessment

The Monitor found CPD to be in compliance with the MOA requirement that each complaint be closed by one of the four dispositions.

### Status Update

During the second quarter of 2004, 83 cases involving 88 allegations were investigated and closed through CCRP with the following dispositions:

Sustained	13
Sustained Other	2
Exonerated	19
Not Sustained	19
Unfounded	33
Case referred to IIS	2

A total of 61 cases were closed as a result of those investigations assigned to IIS. Those cases were closed as follows:

Sustained	37
Sustained Other	0
Exonerated	3
Not Sustained	7
Unfounded	14

During this quarter, CPD also received and processed 42 reports of favorable officer conduct reported on positive contact forms. In addition, there were 121 letters of commendation received recognizing outstanding performance of CPD officers.

## **E. CCA**

### Monitor's Previous Assessment

The Monitor found CPD to be in compliance with the general operations provisions of the MOA. However, the Monitor did not have the data available to make a compliance determination with the provision requiring the CPD to take "appropriate action" when the City Manager "agrees" or "agrees in part" with CCA recommendations.

### Status Update

In those cases where CCA and CPD disagree in their findings, the City Manager will continue to resolve these issues after looking into the applicable policy, procedural, and legal issues involved.

In regards to the data associated with these cases, CPD believes this information will be easier for the Monitor to obtain with the implementation of CPD's ETS system in conjunction with the development of a new case management system for CCA.

### **Appendix Information (Document Description – Exhibit Number)**

- |                             |    |
|-----------------------------|----|
| • IIS Case Closure Summary  | 16 |
| • CCRP Case Closure Summary | 17 |

## **VI. Management and Supervision**

### **A. Risk Management and Supervision**

Paragraphs 57-66 of the MOA are relevant to risk management and supervision.

#### Monitor's Previous Assessment

The Monitor reported that CPD is now in compliance with the MOA requirements for the ETS protocol and data input plan. The Monitor also reported that CPD is in compliance in regards to the Manual Risk Management System requirement.

#### Status Update

##### ➤ Employee Tracking Solution (ETS)

The implementation of the Employee Tracking Solution (ETS) was originally to "go live" on July 1, 2004. However, there are corrections that still need to be made and the data conversion by the vendor is not complete. The revised "go live" date has not been determined, but is expected to be in September, 2004.

Since the last reporting period, all CPD supervisors have been trained in the ETS system with the exception of approximately four non-sworn and two sworn supervisors. The two sworn supervisors are on extended leave due to FMLA and military duty. The remaining supervisors will be trained during the training for new sergeants.

Most of the corrections have been made to the system and the contractor (CRISNET) continues to make final corrections to the database. The final phase for the completion of the system is the data conversion. CRISNET has started the data conversion. They will first convert the data and then clean the data. The data will then be imported into the ETS.

The CPD's Information Technology Management Unit (ITMU) is currently proofing the system, establishing the organizational groups, and developing the security rights within the system.

##### ➤ Department Risk Management System (DRMS)

During this reporting period, one police officer exceeded the DRMS minimum threshold. The officer's supervisor met with the officer and reviewed the incidents. The intervention report for the officer identified has been included in Appendix Item #18.

## **B. Audit Procedures**

Paragraphs 67-69 of the MOA deal with Audit Procedures.

### Monitor's Previous Assessment

The Monitor found CPD to be in partial compliance with these provisions. The Monitor found deficiencies in the Inspections Section's quarterly CCRP audit. Most notably:

- Limited documentation of which files were reviewed
- Documentation on how the audit was conducted
- Audit checklists were not used
- Audit did not involve contacting the complainants to evaluate "whether the actions and views of the citizen were captured correctly in the CCRP report," as required by the MOA

The Monitor determined full compliance will require an effort to contact complainants who have participated in the CCRP process.

### Status Update

Inspections Section has reviewed the Citizen Complaint Resolution Process (CCRP) for the second quarter of 2004. Seventy-three complaints were filed with the Department from April through June. A random audit was conducted on the closed investigations. The CCRP investigations were reviewed to ensure investigating supervisors addressed the complaints, used proper standards to reach conclusions, and made recommendations consistent with the findings and the disciplinary matrix.

Inspections Section reviewed the following criteria:

- Ensure CCRP complaints were entered into the database and the case files were in a secure area
- Ensure necessary documentation was completed for each CCRP investigation
- Ensure the investigating supervisor notified the complainant of the disposition and whether any corrective or disciplinary action was taken

Inspections Section also attempted to contact numerous complainants to determine if the investigating supervisor made an accurate evaluation of the complainant's feedback of the CCRP process. However, only one complainant has cooperated with this effort. The complainant was very satisfied with the process and the supervisor's efforts during the investigation.

The audit revealed that CCRP investigations were found to be complete, logged into the proper databases, and stored in secured locations. Complainants were contacted and advised of the investigations outcome and whether any corrective or disciplinary action was taken.

Although the Monitor expressed concerns regarding the protocol used for a CCRP audit, he has not provided CPD with specific criteria. CPD will continue further discussions with the Monitor in this area.

A summary of the audit was prepared on August 6, 2004, and is included in Appendix Item 19.

CPD conducted a semi-annual audit of cases resolved by IIS. The audit reviewed cases cleared through January 1, 2004 through June 30, 2004. Pursuant to the requirements outlined in the Inspections Section's Standard Operating Policies and Procedure #1.54, the audit found that the cases reviewed, with the exception of one, were in compliance with the policies, procedure, and standards of the CPD. One case was returned to the investigator to examine a custodial issue.

A summary of the audit was prepared on August 2, 2004, and is included in Appendix Item 20.

CPD also had discussions with representatives from both the City and County Prosecutor's Offices to discuss individual and/or collective officer performance issues. Both Mr. Ernest McAdams, from the City Prosecutor's Office, and Mr. Karl Kadon, from the Hamilton County Prosecutor's Office, via electronic mail stated there are currently no areas of concern pertaining to officer, shift, or unit performance.

Mr. McAdams, however, raised an issue pertaining to officers being more diligent about attending court. Inspections Section has subsequently initiated audits of the Change in Court Appearance forms (Form 678) to ensure officers have legitimate excuses when not attending court.

Mr. McAdams asks officers to be more diligent in marking paperwork with "Automated Control of Evidence (ACE)" when an incident involves an MVR tape. This issue will be covered at roll calls in the districts.

Copies of the electronic mail correspondence and a summary form is included in Appendix Item 21.

### **C. Video Cameras**

MOA Paragraphs 70-72 deal with video camera requirements.

#### **Monitor's Previous Assessment**

The Monitor finds CPD to be in only partial compliance with these MOA provisions citing the following issues:

- Not all the cruisers are camera equipped
- There continues to be cases where officers are not activating their MVRs during traffic stops



### Status Update

#### ➤ Video Camera Implementation

Currently, 67 of CPD's 236 marked units are not equipped with a MVR. CPD has received funding in the amount of \$371,000 to purchase 62 Digital Video Data (DVD) units with the supporting hardware and equipment. These cameras have since been purchased and installation is expected to be completed by the end of the third quarter, 2004. These 62 units will be installed in marked units not currently installed with a MVR.

Until all units are equipped with MVRs, CPD supervisors will assign police vehicles with no MVRs as a last resort.<sup>5</sup>

CPD has begun training for the new digital units. It is anticipated the program will use the "train the trainer" concept to instruct officers in the field.

The Department is also working on finalizing funding and the development of a purchase order for the remaining 174 units required to digitally equip the entire cruiser fleet. This funding is in the capital budget for 2005.

In regards to the Monitor's concerns of the activation of MVRs during traffic stops, current CPD policy requires activation during these stops. Policy further states corrective action would follow any instance where a stop was not recorded. CPD requests the Monitor to identify specific instances in which the MVR was not activated during a traffic stop.

Although the issue of practicality surrounding the activation of the MVR during the transport of disorderly prisoners has yet to be clarified by the Monitor, CPD has again emphasized these concerns by reviewing the MVR policy in June of 2004's roll call training.

### **D. Police Communications Technology**

MOA Paragraphs 73 and 74 relate to police communications technology.

#### Monitor's Previous Assessment

The Monitor found CPD to be in compliance with these provisions.

### Status Update

#### ➤ Radio Replacement – 800 MHz Project

Motorola is still in the process of completing the infrastructure necessary to support the new system, but has been delayed due to securing radio tower sites and obtaining various government approvals. Although delayed, the sites will be acquired. The construction timeline has been pushed back with the system

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<sup>5</sup> Procedure 12.537

projected to come on line during the fourth quarter of 2004 or the first quarter of 2005 (December or January). In order to have training occur just prior to the system going on line, training will be pushed back to October/November, 2004.

The backup site at the Spinney Complex is nearing completion. Construction is complete with the furniture delivered and set up. Motorola is finishing installation of computers to backroom equipment. This site should be ready to go online and available for training purposes by September 1, 2004.

➤ **Emergency 911 Phone System Replacement**

Replacement of the current 911 Phone System is still underway. The equipment has been shipped and is currently in storage awaiting installation into the Radcliff Building. Backroom hardware installation is now projected to occur in September, 2004.

Training on the new equipment will begin once occupancy of the Emergency 911 Operator portion of the Radcliff Building is permitted. Once Emergency 911 Operators are trained, call-taking operations will be switched over to the Radcliff facility. It is anticipated that the switchover to the new phone system will be in the fourth quarter of 2004 or the first quarter of 2005 (December or January).

➤ **CAD Replacement**

The Computer Aided Dispatch (CAD) Request for Proposal (RFP) was sent out in conjunction with the Department's Records Management System RFP on June 22, 2004. CAD replacement and switchover is expected to occur sometime in mid/late 2005.

## **E. Discipline and Promotional Policy**

MOA Paragraphs 75-76 are relevant to discipline and promotional policy.

### Monitor's Previous Assessment

The Monitor has deferred a compliance assessment in this area. Implementation of the Employee Tracking Solution will assist in generating the data necessary to make this assessment.

### Status Update

As stated by the Monitor, implementation of the ETS should facilitate in gathering the desired information. In the meantime, CPD will continue to provide the Monitoring Team with access to current electronic and hardcopy files so that the desired information can be obtained.

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• Citizen Complaint Resolution Process – 2004 Second Quarter Audit	19
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CPD-Prosecutor's Office Meeting Summary	21

## **VII. TRAINING**

### **A. Use of Force – Management Oversight and Curriculum**

MOA Paragraphs 77 – 87 are relevant to management oversight of training and training curriculum.

#### Monitor's Previous Assessment

The report finds CPD to be in compliance with this provision, noting the quality and content of the Use of Force training provided has been consistent with the MOA. In future quarters, the Monitor has expressed an interest in assessing the CPD evaluation procedures used for the training.

#### Status Update

During this reporting period, the CPD's Use of Force policy has been reviewed in the following forums:

- During implementation of the X26 TASER, review of the Use of Force policy was reviewed as part of the curriculum.
- During the Spring of 2004, firearms training resumed. The Use of Force policy was part of the curriculum.
- Use of Force policy and related Use of Force scenarios were the topics of the roll call training program in April, May, and June of 2004.

Based on input from the various training sessions, the Training Section conducted another needs assessment for training. Various training items were discussed at the Training Committee meeting held on April 15, 2004. The summary of the meeting is contained in Appendix Item 28.

### **B. Handling Citizen Complaints**

MOA Paragraph 82 is relevant to citizen complaint training.

#### Monitor's Previous Assessment

The Monitor had nothing to report for this provision.

#### Status Update

This was a topic in the new, three week supervisors' training held in April, 2004. The outline for the training is included in Appendix Item 25.

## **C. Leadership/Command Accountability Training**

### Monitor's Previous Assessment

The Monitor found CPD to be in compliance with this MOA provision.

### Status Update

As discussed in the previous status report, the training for the new supervisors was expanded from two to three weeks. A number of command and supervisory issues were covered during the training. A complete list of topics is included in Appendix Item 25. The training was scheduled and implemented shortly after the promotional list was validated, and therefore, all attendees were able to receive the training within the 30 day requirement outlined in this provision.

CPD continues to develop command personnel through participation in outside training programs. During this quarter, one captain is attending the FBI Academy in Quantico, Virginia. Two other captains attended the Senior Management Institute for Police in Boston, Massachusetts.

## **D. Canine Training**

MOA paragraph 84 is relevant to canine training

### Monitor's Previous Assessment

Although the Monitor had nothing to report in this area, he expressed his desire to obtain additional information from DOJ and CPD on how other agencies use the handler controlled alert curriculum. Specifically, the Monitor cited the canine training program utilized by the Metropolitan Police Department in Washington D.C.

### Status Update

On numerous occasions, the Monitor has equated "handler controlled alert" with the programs and procedures adopted by the Metropolitan Police Department in Washington D.C. CPD believes that the Monitor's view of MPD's "handler controlled alert" needs some additional clarification.

In regards to the MPD's MOA, the Office of the Independent Monitor (OIM) has had the opportunity to evaluate MPD's program on three occasions in 2004, the results of which have been included in most recent status reports. Review of these reports suggests that the level of handler control envisioned by the Monitor has not yet been achieved.

CPD has invited DOJ and their experts to observe CPD canine training. Upon conclusion, the Monitor will assist the Parties in resolving any outstanding issues pertaining to training or other canine methodology.

## **F. Scenario Based Training**

MOA paragraph 85 is relevant to scenario-based training.

### Monitor's Previous Assessment

The Monitor has been able to observe the roll call sessions and the training records and has found CPD to be in compliance with this MOA provision.

### Status Update

During the second quarter of 2004, CPD provided 1920 hours of Roll Call Training. Several new scenarios taken from CPD incidents were added to the library. Other areas reviewed include:

- Familiarization with the new state conceal carry legislation
- Manual of Rules and Regulations
- Procedure 12.554 Investigatory Stops
- Procedure 12.545 Use of Force
- Procedure 12.537 Mobile Video Recorders
- Tactical Patrol Guide

The Roll Call Training Program Calendars, scenarios, and summary for this quarter have been included in Appendix Item 23.

## **E. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct**

MOA paragraph 86 is relevant to training based on civil lawsuits

### Monitor's Previous Assessment

The Monitor had nothing to report in this area.

### Status Update

The quarterly meeting between the City Solicitor's office and CPD took place on July 22, 2004. The following items were discussed:

- Preservation of evidence citing *St. v. Benson*, 152 O App.3d 495 (1<sup>st</sup> Dst, 2003). Discussed at in service training. Procedure modified regarding MVR tapes as evidence, storing and processing especially in OVI cases at request of City prosecutor's office.
- Civil liability training – Police academy to determine how the civil liability training from in-service can be included in the recruit training curriculum.

The minutes from the meeting have been included in Appendix Item 24.

## **G. Orientation to the MOA**

MOA paragraph 87 is relevant to MOA orientation training

### Monitor's Previous Assessment

The Monitor indicated CPD is in compliance with this provision. However, the Monitor indicated a concern regarding officers who are unfamiliar with the contents of the MOA and the CA, and of the role of the Monitor.

### Status Update

In addition to the ongoing training on MOA issues presented in the roll call training program, a specific training block devoted to MOA/CA issues was presented at the new supervisors' training in April, 2004, and also as a part of the 97<sup>th</sup> recruit class for the lateral entry Cleveland officers. The training focused on the formation of the agreements, the goal of the agreements, and the impact the agreements have on Department personnel. A curriculum for this training is included in Appendix Item 27.

## **H. Field Training Officers**

MOA Paragraphs 88-89 deal with the training of field training officers.

### Monitor's Previous Assessment

The Monitor notes positive strides in the FTO program are continuing. He observes the performance of the FTOs is now being evaluated and necessary information is being acquired to better assess the qualifications, skills and performance of the FTOs.

### Status Update

CPD has nothing to report this quarter.

## **I. Firearms Training**

MOA Paragraphs 90-91 are relevant to firearms training.

### Monitor's Previous Assessment

The Monitor finds CPD to be in compliance with the firearms training provisions of the MOA.

### Status Update

Firearms training continued during the second quarter of 2004. At the end of this quarter, 625 officers attended firearms training.

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• Introduction to Supervision Course Curriculum	25
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• 97 <sup>th</sup> LET Recruit Class Course Curriculum (re: MOA/CA)	27

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